

REMARKS

In view of the following discussion and amendments to the claims, the Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102(e). Thus, the Applicants believe that all of the presently pending claims are now in allowable form.

If, however, the Examiner believes that there are any unresolved issues resulting in adverse action in any of the claims now pending in the application, Applicants request that the Examiner telephone Mr. Gregory Discher, Esq. at telephone number (202) 662-5485 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Applicants request reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-69 remain pending.

Applicants thank the Examiner for the withdrawal of the rejection of claims 1, 39 and 58 under 35 U.S.C. § 112, second paragraph.

Applicants note that the Examiner has withdrawn the rejection of claims 1-67 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,834,371 to Jensen as set forth in the Office Action dated October 17, 2007. In response to Applicants' amendment filed on February 19, 2008, the Examiner in the most recent and current Office Action dated May 14, 2008, now rejects claims 1-69 under 35 U.S.C. § 102(e) over U.S. Publication 2002/0129057 to Spielberg.

As a preliminary matter, Applicants submit that the Examiner has not set forth a prima facie case for rejecting any of the claims under 35 U.S.C. § 102(e). Applicants note that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v.*

Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *See*, M.P.E.P. Section 2131.

Applicants submit that the published U.S. patent application upon which the Examiner now relies in rejecting the claims—Spielberg—has many of the same (or similar) deficiencies as Jensen with respect to the claimed invention. For example, claim 1 recites “a processor for receiving the audio security disclosure data” and that the processor is used for “creating a text adapted to be visually displayed directly from the audio security disclosure data”. That is, in the claimed invention, the processor receives audio security disclosure data first, and then the processor creates corresponding text for visual display directly from the audio security disclosure data. At least one aspect of the claimed invention, therefore, is generally directed to receiving audio security disclosure data, and “creating a text adapted to be visually displayed directly from the audio security disclosure data.” Applicants have reviewed Spielberg and submit that Spielberg is not directed to at least this aspect of the claimed invention. Accordingly, Spielberg does not even render obvious, let alone anticipate, the claimed invention.

Rejection of Claims 1-69 Under 35 U.S.C. § 102(e)

Applicants traverse the rejection claims 1-69 under 35 U.S.C. § 102(e) over U.S. Publication 2002/0129057 to Spielberg. Claims 1-69 of the present invention recite features that are not disclosed or suggested in Spielberg. For example, the claimed invention is directed, at least in part, to providing a “processor for creating a text adapted to be visually displayed directly from the audio security disclosure data.” Applicants note that the systems and methods disclosed in Spielberg and the present invention are directed to substantially different applications. Whereas Spielberg is generally directed to allowing users to review and add annotations (i.e., add comments) to a digital document such as movie scripts, books, etc. from anywhere in the world (*see*, e.g., Abstract), aspects of the present invention generally relate to a processor for “receiving the audio security disclosure data” and “creating a text adapted to be visually displayed directly from the audio security disclosure data”. (*See*, e.g., Claim 1, Abstract, paras. [0027] and [0029]).

Applicants have provided examples of security disclosure data in the specification, for example, at paragraph [0027]. In particular, paragraph [0027] states that security disclosure data includes “earnings call/presentation data, guidance call/presentation data, sales call/presentation data, shareholder/annual meeting data, and the like.” In contrast, Applicants do not find in Spielberg any suggestion, let alone disclosure, of providing “security disclosure data” as that term is used and defined in the present application, let alone a “processor for creating a text adapted to be visually display directly from the audio security disclosure data,” as recited in the claimed invention.

On page 3 of the Office Action, with regard to independent claims 1 and 39, the Examiner cites paras. [0022 through 0023] of Spielberg as allegedly disclosing “a storage medium comprising security disclosure data in an audio format.” However, Applicants submit that Spielberg does not disclose, or even suggest, “security disclosure data,” as recited in claims 1 and 39, and as disclosed, for example, in para. [0027] of the specification. The Examiner also cites paras. [0065 through 0070] of Spielberg as allegedly disclosing “a processor for receiving the audio security disclosure data at a first time and for inserting a first marker therein.” However, since Spielberg does not disclose “security disclosure data,” it necessarily follows that Spielberg does not disclose “a storage medium comprising security disclosure data in an audio format,” or “a processor for receiving the audio security disclosure data at a first time and for inserting a first marker therein,” as recited in the claimed invention.

In view of the foregoing, Applicants request that the Examiner withdraw the rejection of claims 1-57 under 35 U.S.C. § 102(e).

Moreover, claims 1-69 recite additional features that are not disclosed or even *suggested* in Spielberg. For example, claim 1 recites that the processor is used for “creating a text adapted to be visually displayed directly from the audio security disclosure data”. That is, in the claimed invention, the processor receives audio security disclosure data, and the processor creates corresponding text adapted to be visually displayed directly from the audio security disclosure data. At least one aspect of the claimed invention, therefore, is generally directed to receiving audio security disclosure data, and creating a text that is adapted for visual display

directly from that audio security disclosure data. Applicants have reviewed Spielberg and submit that Spielberg is not directed to at least this aspect of the claimed invention. Accordingly, Applicants submit that Spielberg does not anticipate the claimed invention.

More particularly, Spielberg does not disclose a processor that is used for “creating a text adapted to be visually displayed” —directly or indirectly—from anything. On page 3 of the Office Action, the Examiner cites page 6, para. [0061] of Spielberg as allegedly disclosing “said processor for creating a text directly from the audio security disclosure data at a second time subsequent to the first time and for inserting a second marker in the text in a position corresponding to a location of the first marker in the audio security disclosure data.”

Para. [0061] of Spielberg—cited by the Examiner—discloses the following:

[0061] During playback, the document may be converted to speech in text/speech conversion block 506 if the document is text and if audible playback is desired. Text/speech conversion block 506 comprises a text-to-speech conversion engine configured to accept text as input and generate audio as output. Some examples of text-to-speech engines that text/speech block may comprises includes text-to-speech engines such as the ones made by Lernout & Hauspie, Microsoft™, or any other text-to-speech provider. A user desiring to add comments to the document at a particular point during playback generates an annotaion [sic] start mark 514 by selecting performing an action such as selecting annotate button 313. However, the invention contemplates other mechanisms that may cause an annotation start mark 514 to occur. For instance, annotation start mark may be voice activated or activated by any other command provided by the user who desires to provide an annotation.

In contrast to the claimed invention, which recites “creating a text adapted to be visually displayed directly from the audio security disclosure data,” Spielberg discloses precisely the opposite. That is, whereas the claimed invention receives audio data and creates text from audio data, para. [0061] of Spielberg discloses a **document** that “may be **converted to speech** in text/speech conversion block 506,” that **text/speech conversion block 506** “comprises a **text-to-speech conversion engine** configured to accept text as input and generate audio as output,” and “text-to-speech engines.” (emphasis added.) It is difficult to envision how this passage of Spielberg that is cited by the Examiner could possibly be said to disclose “creating a text adapted to be visually displayed directly from the audio security disclosure data,” as recited in the claimed invention.

Accordingly, Applicants submit that Spielberg, under any credible interpretation, cannot be said to disclose at least the aspect of the claimed invention that is directed to “creating a text...”. This feature of the claimed invention is illustrated, for example, in Figure 1 of Applicants’ specification (and corresponding description in the specification). More specifically, as shown in Figure 1, security disclosure data 14 is provided as an input to security disclosure data to text module 20 (of processor 12). It is Applicants’ security disclosure data to text module 20 that is used for “creating a text adapted to be visually displayed directly from the audio security disclosure data,” as recited in the claimed invention. (See, e.g., para. [0029] of Applicants’ published application, US 2005/0015709). In contrast, Spielberg, starting with text and generating audio output based on the text, cannot be said to be “creating a text adapted to be visually displayed” from audio data as recited in the present invention. For at least this reason, Applicants submit that Spielberg does not anticipate the claimed invention.

Applicants note that in the Office Action, the Examiner does not appear to even *suggest* that Spielberg performs the function of “creating a text adapted to be visually displayed.” Instead, on page 3 of the Office Action, the Examiner states that Spielberg “...provides a start mark and an end annotation directly from the audio formatted data.” However, as noted above, at least one aspect of the claimed invention is directed to “creating a text adapted to be visually displayed directly from the audio security disclosure data.” Spielberg simply does not disclose

or suggest “creating a text adapted to be visually displayed directly from the audio security disclosure data”, as recited in the claimed invention.

Moreover, because the purpose of Spielberg is to allow a user to verbally comment on a document from multiple locations, Applicants submit that Spielberg is not concerned with or directed, for example, to “creating a text adapted to be visually displayed directly from the audio security disclosure data” as recited in the claimed invention. The *Background of the Invention* section of Spielberg makes the purpose of Spielberg clear, stating that:

[0005] Since the people who are largely responsible for reviewing documents often have a schedule that keeps them moving from one meeting to another, there is a need for a device that simplifies the review process *by allowing a reviewer to interact with the document while on the move*. For example, current systems do not allow the reviewer to access and verbally comment on a document from multiple locations. A reviewer cannot use current systems to begin reviewing a document from a cell phone in the reviewer's car, continue to review the same document from a home PC, and finish reviewing the document from a pay phone.

[0006] Current systems also do not provide the reviewer with an intuitive way to verbally interact with the document. Most systems for reviewing documents are text-based and do not have the ability to read the *document to the reviewer so that the reviewer can hear the contents of the document*. Moreover, these text-based systems do not provide a way to record verbal comments provided by the reviewer while the document is being read. These limitations become particularly evident when the document being reviewed is a movie script or some other kind of

document where it is important for the reviewer to hear the words contained in the document.

....

[0016] Thus, there is a need for a system that solve [sic] the limitations inherent in the prior art by *allowing the user to listen to a document and verbally comment on the contents of the document without necessarily changing the document*. Moreover users could benefit from a system that aids the user responsible (e.g., the typist or data entry person) for the conversion process. In some instances there is also a need for a system that allows user to selectively listen to comments made by a certain individual without having to review all comments that were made about the document.

Spielberg, paras. [0005], [0006], and [0016] (emphasis added).

As is clear from the *Background of the Invention* section, Spielberg is concerned with functions such as “allowing a reviewer to interact with the document while on the move, ” reading a “document to the reviewer so that the reviewer can hear the contents of the document,” and “allowing the user to listen to a document and verbally comment on the contents of the document without necessarily changing the document.” Spielberg at paras. [0005], [0006], [0016].

Applicants find no teaching or suggestion, let alone disclosure, in Spielberg pertaining to “a processor for receiving audio security disclosure data at a first time” and “creating a text adapted to be visually displayed directly from the audio security disclosure data at a second time subsequent to the first time,” each as recited in the claimed invention.

Applicants submit that independent claims 39, 58, 60, 68 and 69 are allowable for substantially the same, or similar, reasons as claim 1. For example, independent claim 39 recites “creating a text adapted to be visually displayed directly from the audio security disclosure data at a second time subsequent to the first time”. Independent claim 58 recites “automatically creating a text adapted to be visually displayed directly from the audio security disclosure data.”

Independent claim 60 recites “a processor for...causing a display monitor to display for simultaneous viewing at a second time subsequent to the first time a first text generated from the audio security disclosure data and a second text generated from the audio security disclosure data.” As noted above, Applicants do not find audio security disclosure data in Spielberg. Nor do Applicants find that Spielberg causes a display monitor to display for simultaneous viewing a first text generated from the audio security disclosure data and a second text generated from the audio security disclosure data.

On page 7 of the Office Action, the Examiner states that claim 60 “recites similar language to the rejected apparatus claim, independent claim 1.” However, claim 1 does not recite the “first text” and “second text” limitations. Applicants submit that Spielberg does not disclose the first text and second text limitations recited in claim 60. If the Examiner believes that Spielberg discloses the recited “first text” and “second text” limitation, he is requested to identify where in Spielberg these limitations are disclosed.

Dependent claim 61 recites “the first text is a verbatim transcript of the audio security disclosure data and the second text is a summary of the audio security disclosure data.” Applicants do not find either the “verbatim transcript” or the “summary of the audio security disclosure data” limitations disclosed in Spielberg. On page 7 of the Office Action, the Examiner cites para. [0063] of Spielberg as allegedly disclosing these limitations.

However, para. [0063] of Spielberg discloses the following:

[0063] In one embodiment of the invention, annotator 508 has the capability to transmit sound and text data to the user. For example, audio sound generated in text/speech

conversion block 506 may be transmitted to the user via a speaker system. If the system is part of an automobile sound system, for instance, audio data may be generated and sent via the speaker system associated with the automobile's stereo system. If the document contains sound data, the annotator 508 utilizes a media player to play the sound data directly to the user via the speaker system. Annotator 508 has the capability to receive and record sound and text data. For example, user comments 512 may arrive from a sound input source such as a microphone and recorded in memory 504 by annotator 508. Thus, annotator 508 comprises or is associated with an audio input/output mechanism that can collect audio data from or provide audio data to the user.

Applicants do not find that this para. [0063] of Spielberg discloses the “verbatim transcript” or the “summary of the audio security disclosure data” limitations recited in the claimed invention. If the Examiner believes that Spielberg discloses the recited “verbatim transcript” and “summary of the audio security disclosure data” limitations, he is requested to identify where in Spielberg these limitations are disclosed.

Independent claim 68 recites “said processor...creating a summary transcribed text from the audio security disclosure data and a complete transcribed text from the audio security disclosure data...”. As noted above, Applicants do not find audio security disclosure data in Spielberg. Nor do Applicants find that Spielberg creates a “summary transcribed text” and a “complete transcribed text” from the audio security disclosure data. On page 7 of the Office Action, the Examiner states that claim 68 recites “similar limitations to those found in Independent claim 1 and...dependent claim 62.” However, claims 1 or 62 do not recite either the “summary transcribed text” or the “complete transcribed text” limitations recited in claim 68. Applicants submit that Spielberg does not disclose the summary transcribed text and complete text limitations recited in claim 68. If the Examiner believes that Spielberg discloses the recited

“summary transcribed text” and “complete transcribed text” limitations, he is requested to identify where in Spielberg these limitations are disclosed.

Independent claim 69 recites a processor for displaying “a first summary text generated from the audio security disclosure data” and “a second verbatim text generated from the audio security disclosure data.” As noted above, Applicants do not find audio security disclosure data in Spielberg. Nor do Applicants find that Spielberg creates for display “a first summary text” and “a second verbatim text” from the audio security disclosure data. On page 7 of the Office Action, the Examiner states that claim 69 recites “similar limitations to those found in Independent claim 1 and...dependent claim 62.” However, claims 1 or 62 do not recite the “a first summary text” and “a second verbatim text” limitations recited in claim 69. Applicants submit that Spielberg does not disclose the first summary text and second verbatim text limitations recited in claim 69. If the Examiner believes that Spielberg discloses the recited “first summary text” and “second verbatim text” limitations, he is requested to identify where in Spielberg these limitations are disclosed.

In view of the foregoing, Applicants submit that dependent claims 2-38, 40-57, 59, and 61-67 are allowable by virtue of their dependency from an independent claim.

Nevertheless, Applicants offer the following remarks with regard to the Examiner's rejection of claims 4 and 5, and claim 8. Applicants reserve the right to further comment on other rejections set forth by the Examiner in connection with the pending dependent claims.

With regard to the rejection of claims 4 and 5, on page 4 of the Office Action, Applicants note that the Examiner states that “[i]f the hyperlinks were presented using the interface of Spielberg...” (emphasis added). Applicants submit that the hypothetical “if” is inappropriate for use in an anticipatory rejection under 35 U.S.C. § 102(e). *See*, M.P.E.P. Section 2131. Accordingly, Applicants request that the Examiner withdraw the rejection of claims 4 and 5 for at least this reason.

With regard to the rejection of claim 8 on page 5 of the Office Action, Applicants note that the Examiner provides no indication as to whether (and, if so, where) Spielberg discloses the claimed “visual data.” Claims 9-19 depend directly or indirectly from claim 8. Accordingly, Applicants request that the Examiner withdraw the rejection of claims 8-19 for at least this reason.

CONCLUSION

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, that is patentable. Applicants have emphasized certain features in the claims as clearly not present in the prior art, as discussed above. However, Applicants do not concede that other features in the claims are also not missing in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why each of the claims described above are distinguishable over the cited prior art.

For the reasons advanced above, issuance of a Notice of Allowance is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0740.

Dated: October 24, 2008

Respectfully submitted,

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